

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

DOCKET NO. 99-477

October 29, 1999

CMP NATURAL GAS, L.L.C.,  
Petition for Approval to Furnish  
Gas Service in the Municipalities  
Of Westbrook and Gorham (§2105)

ORDER DENYING  
CMP NATURAL GAS'S  
REQUEST TO OVERRULE  
PROCEDURAL ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. Summary**

We deny CMP Natural Gas's (CMP NG) request to overrule the Hearing Examiner's October 20, 1999 Procedural Order extending the case schedule.<sup>1</sup>

**II. Background**

By Procedural Order dated October 20, 1999, the Hearing Examiner granted a schedule extension in this case in response to Northern Utilities, Inc.'s (Northern) October 18, 1999 Motion to Suspend or Modify Procedural Schedule, finding that an extension of time was warranted to explore newly released information. The Examiner also found that the 2-week extension would not cause undue harm to CMP NG or delay the project.

On October 22, 1999, CMP NG requested that the Commission overrule the October 20, 1999 procedural order arguing that it violates the Commission's September 9, 1999 Order which established November 1 or thereabouts as the date for resolution of this matter, provided no issues arose which required further process. See *Order on Reconsideration of Schedule and Scope* at 2. CMP NG also argued that extending the schedule was simply a litigation strategy employed by Northern to jeopardize the proposed project.

Northern filed opposition to CMP NG's appeal on October 25, 1999, arguing that "extension is needed [though inadequate] because of CMP NG's continued refusal to produce relevant documents" and to allow for review of recently released information previously claimed to be confidential. *Letter* at 3. Further, Northern argued that CMP NG's recently released information made clear that CMP NG could not adhere to its construction schedule and contended that CMP NG had not adequately explained why it had not provided certain information earlier in the proceeding or, for that matter, to date.

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<sup>1</sup> Consequently, the schedule remains as set forth in procedural orders dated October 20 and 26, 1999.

Finally, Northern questions whether Central Maine Power Company would have extended the same tree clearing or other services to a non-affiliate.

### III. Analysis

We decline to overrule the Examiner's October 20, 1999 Procedural Order Extending Briefing and Case Schedule. The 2-week extension allowed by the Hearing Examiner for decision of this case does not contradict the tenor of our September 9<sup>th</sup> Order which allowed for some variation in the date for final resolution.<sup>2</sup> Moreover, we see no reason to disturb the Examiner's conclusion that additional time is warranted to explore questions and issues raised by information released by CMP NG after the October 13<sup>th</sup> hearing in this case.

Finally, as a practical matter, due to the exceptionally tight schedule in this case, it is not possible to reinstate the previous schedule. Nor would time allow a complete consideration of the issues in this case without the remaining process as currently established.

Accordingly, we

### ORDER

1. That CMP Natural Gas's request is denied.

Dated at Augusta, Maine, this 29th day of October, 1999.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR: Welch  
Nugent  
Diamond

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<sup>2</sup> See Order at 2. (Instructing the Hearing Examiner to develop a schedule which would resolve this proceeding "by November 1, 1999 or shortly thereafter.") The Order also discusses the possibility that the end date could be revised "[i]f in the course of the proceeding, issues or information comes to light which suggest that a longer investigation is warranted." Id.

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. §9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

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